

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI S. R. NAYAK, C. J. &
HON'BLE SHRI SATISH K. AGNIHOTRI, J.

WRIT PETITION NO.702 OF 2001

PETITIONER : Dhiraj Kumar Sengar,
Adopted son of Late Shri Chitaranjan Singh
Sengar, (Real son of Shri Ganesh Singh
Sengar), Resident of Vill. Latiya, Tehsil Janjgir,
Distt. Champa – Janjgir (C.G.)

VERSUS

RESPONDENTS 1. State of Chhattisgarh,
Through Secretary,
Department of School Education,
Mantralaya, Raipur (C.G.)

2. Director,
Public Instructions,
Raipur (C.G.)

3. Joint Director,
Public Instructions,
Bilaspur Division,
Bilaspur (C.G.)

4. Dy. Director,
School Education,
Janjgir,
Distt. Champa – Janjgir (C.G.)

PRESENT: Shri Ashish Shrivastava, counsel for the petitioner.

Shri Utkarsh Verma, Dy. Govt. Advocate for the
State/respondents.

ORAL ORDER
(PASSED ON 13-9-2006)

The following oral order of the Court was passed by the Court.

If we may say so, the Madhya Pradesh Administrative Tribunal,
Jabalpur, by passing the impugned order has committed an error

apparent on the face of its order. The facts are simple and straightforward. The petitioner herein on the demise of his adopted father, namely, Chitaranjan Singh Sengar, made an application to the respondents to offer him a suitable employment under the compassionate appointment scheme framed by the department. On consideration of his application, appointment was offered to the petitioner vide order dated 8-4-1997. Accordingly, he reported for duty on 12-4-1997. When the matter stood thus, by order dated 19-6-1997, his appointment was cancelled on the ground that the petitioner failed to produce valid succession certificate.

2. Feeling aggrieved by the said action of the respondents, the petitioner instituted an application i.e. Original Application No. 1909/1997 before the Tribunal. The Tribunal vide the impugned order dismissed the Original Application on the ground that the adoption deed is not registered and, therefore, no presumption could be drawn that the petitioner is the adopted son of the deceased Chitaranjan Singh Sengar. The impugned order itself would disclose that in support of his case, the petitioner has produced not only the deed of adoption as Annexure A-1 but also Succession Certificate issued by the competent court of law as Annexure A-2. It seems to our mind that learned Tribunal had not applied its mind to the Succession Certificate issued by the competent court of law. It is needless to state that the Tribunal has no jurisdiction to question the correctness of Succession Certificate Annexure A-2. The deed of adoption and Certificate of Succession would undeniably prove that the

petitioner is the adopted son of the deceased Chitaranjan Singh Sengar who died in harness. It is nobody's case that the petitioner being adopted son of the deceased employee is not entitled to seek appointment on compassionate ground to a suitable post. If that is the position, the order passed by the department dated 19-6-1997, we should say, is *ex facie* illegal and untenable in law.

3. In the result, we allow the writ petition, quash the impugned order passed by the Tribunal as well as that of the department dated 19-6-1997 and direct the respondents to reinstate the petitioner into service. We make it clear that the petitioner is entitled to all benefits, pecuniary and otherwise, flowing from the quashing of the impugned order. The petitioner is also entitled to costs quantified at Rs. 3,000/- (Rs. Three thousand only) payable to him within a period of two weeks from today.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge